



September 30, 2003

DESIGN MEMORANDUM No. 03-14
TECHNICAL ADVISORY

TO: All Design, Operations, and District Personnel, and Consultants

FROM: /s/ Anthony L. Uremovich
Anthony L. Uremovich
Design Policy Engineer
Contracts and Construction Division

SUBJECT: Rule 5 Submission for Erosion Control Plan

SUPERSEDES: *Indiana Design Manual* Section 9-2.05(06)

AFFECTS: *Indiana Design Manual* Section 37-1.0

EFFECTIVE: Immediately

The land disturbance area threshold requiring National Pollutant Discharge Elimination System (NPDES) Rule 5 submission with an erosion control plan will change effective January 1, 2004.

A Rule 5 Submission is required for construction activities where grading, excavation, or other land disturbance affects 0.4 ha (1 ac) or more of land area. Any earth exposed counts toward the 0.4 ha (1 ac). Rule 5 applies to every State and local project regardless of community size or funding type. See *Indiana Design Manual* Chapter Nine, Exhibit 4 for information on applying for a Rule 5 Submission. *Indiana Design Manual* Chapter Thirty-seven discusses INDOT practices for temporary erosion and sediment control during construction.

The designer should determine if a body of water that could be affected by construction-generated sediment is designated as an Outstanding State Resource or as an Exceptional Use water. These are listed in *Indiana Design Manual* Chapter Nine, Exhibit 4. If the project's affected water is one of these locations, the designer should supply a list of names and addresses of the affected property owners with the erosion control plan to the Design Division's permits coordinator. The coordinator will then request an individual NPDES Construction Permit. Construction affects on all other waters will not require an individual Permit.

The primary difference between the procedure for which an individual Permit is or is not required is timing. If an individual Permit is not required, once the permits coordinator submits the Notice of Intent to IDEM, the process ends. If an individual Permit is required, IDEM issues a public notice for 30-day comment. The timeframe from IDEM's receipt of the NOI/request for the Individual Permit to the end of the process can be 120 days.

For a project with notice to proceed with construction after January 1, 2004, and Rule 5 processing was not completed for a land disturbance area of less than 2 ha (5 ac), the designer must contact the permits coordinator regarding Rule 5 Submission in accordance with this memorandum.

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